

UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF WISCONSIN

IN RE
Joseph A. Gemignani Sr. and Barbara A.
Gemignani

Chapter: 13
Case No. 21-25588-kmp

Debtors.

**OBJECTION OF JPMORGAN CHASE BANK, NATIONAL ASSOCIATION TO
CONFIRMATION OF THE CHAPTER 13 PLAN**

JPMorgan Chase Bank, National Association, a secured creditor, by its attorneys, Gray & Associates, L.L.P., objects to the confirmation of the proposed plan on the following grounds:

1. The creditor holds a secured interest in the real estate located at 616 E Day Ave, Whitefish Bay, WI 53217-4841 (Milwaukee County Property) and the real estate located at 514 Sharpes Dr. Unit 19, Elkhart Lake, WI 53020 (Sheboygan County Property).
2. The plan does not comply with the provisions of Chapter 13 in that:
 - (a) The creditor has not accepted the plan;
 - (b) The plan may not be feasible.
 - (c) With respect to the Milwaukee County Property, the plan does not propose to make any adequate protection payments to the creditor while the property is being marketed for sale. The plan is vague with respect to the marketing of the property and fails to provide any recourse to the creditor in the event the property is not sold within 6 months. The plan fails to provide for payment of the creditor's claim and fails to provide for surrender of the property. None of the requirements of Section 1325 are met

Drafted by:

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for confirmation of the plan.

(d) The plan improperly proposes a "cramdown" of the creditor's mortgage with respect to the Sheboygan County Property in that it suggests that the debtors will hold title to the subject real estate free and clear of the creditor's lien upon payment of the secured portion of the claim in the amount of \$285,000.00 @ 5.00%. The debtors further propose a monthly payment of \$1,5229.94 [sic] per month with a balloon payment of \$266,427.41 due December 2025. The creditor contests the valuation of the property and believes the value of the property is significantly higher. A sheriff's sale was held on October 7, 2021 in which a third party bidder successfully bid on the property in the amount of \$500,000.00. The creditor further contests the method of payment in that a lump sum payment four years from now is speculative and creditor requests equal monthly payments upon its secured claim.

3. The debtors may not qualify for Chapter 13 bankruptcy pursuant to 11 U.S.C. section 109(e) because the secured claims exceed the secured debt limit of \$1,257,850. The creditor's secured claim alone is approximately \$1,278,998.17. The creditor is in the process of preparing and filing its proof of claim.

4. The foregoing prevents confirmation of the debtors' plan pursuant to 11 U.S.C. section 1325.

WHEREFORE, an objection is made to the confirmation of the plan, that a hearing upon this objection be scheduled and that the clerk issue notice of said hearing to the appropriate parties and that the secured creditor be awarded such and further relief as the court may deem to be just and equitable.

Dated this 18th day of November, 2021.

Gray & Associates, L.L.P.
Attorneys for Creditor

By: 

Jay Pinner
State Bar No. 1010692

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CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2021, the objection to confirmation of plan was electronically filed in this case and served upon the following parties using the ECF system:

Rebecca R. Garcia Trustee

Eastern District U.S. Trustee


David G. Kingstad

I further certify that on the same date, I mailed the same document(s) by the United States Postal Service to the following non-ECF participants:

Joseph A. Gemignani Sr.
616 E Day Ave
Whitefish Bay, WI 53217-4841

Barbara A. Gemignani
616 E Day Ave
Whitefish Bay, WI 53217-4841

Dated this 18 day of November, 2021.



Carley Pettis, Trainer
Gray & Associates, L.L.P.

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